

PROPOSITION ____
[I - 16 - 2022]

Arizona Fair Elections Act

ANALYSIS BY LEGISLATIVE COUNCIL

Proposition ____ would amend laws relating to voting and election procedures, initiative and referendum, campaign finance and lobbying. This measure would also impose a new minimum corporate income tax on corporations with more than fifty employees and create a voluntary income tax checkoff, with a portion of these proceeds directed to the Clean Elections Fund, to be used for additional public funding of political candidate campaigns and related expenses.

Voter registration and related procedures

1. Provides for automatic voter registration for eligible driver license applicants or applicants for renewal unless the person "opts out" or is already registered. (Currently, a person must "opt in" to register to vote while obtaining or renewing a driver license.)

2. Requires the establishment of a secure automatic electronic voter registration system and requires the Arizona Department of Transportation (ADOT) to electronically transmit to the Secretary of State and the appropriate county recorder relevant voter registration information, including electronic images of signatures, for persons who provide evidence of U.S. citizenship and apply for, renew or update their information on Arizona driver licenses and Arizona non-operating identification licenses.

3. Allows the Secretary of State to designate state agencies as "source agencies" for registering persons to vote and transmitting that registration information to the Secretary of State and appropriate county recorders on the same day it is received by the source agency. If the person does not provide documents proving citizenship, the Secretary of State may transmit the information to county recorders only if the person has been registered to vote at another location in this state.

4. Requires the Secretary of State to provide a system for a person to register to vote or update a voter registration through the internet. The system must accept valid proof of U.S. citizenship and electronic signature images and must allow registration without regard to whether the person has an Arizona driver license or Arizona non-operating identification license.

5. Not later than December 31, 2024, requires the Secretary of State to establish a system to allow approved third-party organizations to securely submit voter registration information. The Secretary of State shall provide for security requirements and an approval process for eligible third-party organizations.

6. Requires the county recorder to notify and confirm with the person if the recorder receives any voter registration information, including any changes to that information, relating to that person's voter registration.

7. Requires the Secretary of State, ADOT and source agencies to report annually on specific data regarding the use of the secure electronic voter registration and requires the Secretary of State to compile and post the report on the Secretary of State's website.

8. Beginning in the 2024 primary election, provides that a person must be a resident of this state on election day and may register to vote on election day and vote in that election. Removes the requirement under current law that a person must be a resident of this state for at least twenty-nine days and must be registered to vote at least twenty-nine days before an election in order to vote in that election.

9. Requires proof of identification and proof of residency for election day and early voting registrants. If the person does not provide adequate proof of citizenship at that time, the person is only eligible to vote a ballot with federal offices as provided by federal law.

10. Requires that for a person who registers to vote on election day or during early voting, if election officials cannot confirm the person's information at that time, the person may only vote a provisional ballot which must be verified later before being tabulated.

11. Requires that a voter registered with no political party preference may appear at a voting location for the presidential preference election, register with a political party that day and vote in that election.

12. Changes the name of the "active early voting list" to the "permanent early voting list" and eliminates the requirement that a person be removed from the permanent early voting list if the person fails to vote with an early ballot in two consecutive election cycles. Also allows requests by email and online for persons to receive an early ballot and to be added to the permanent early voting list. Removes the requirement in current law that a person who requests an early ballot must provide the person's date and place of birth, but maintains that requirement if the request involves a change of address.

13. Requires the county recorder to allow a voter to provide a missing signature or verify a questioned signature on an early ballot affidavit envelope within five days after an election with a federal office on the ballot or within three days for other elections. Under current law, the county recorder must allow a voter to correct or confirm an inconsistent signature within five days after an election with a federal office on the ballot or within three days for other elections, and if the signature is missing, the county recorder must allow the voter to add the signature before 7:00 p.m. on election day.

14. Requires an early ballot to be counted if it is received at a voting location or delivered to the county recorder by 7:00 p.m. on election day or if it is postmarked or otherwise indicates it was mailed on or before election day and is received within five days after an election with a federal office on the ballot or within three days for other elections.

15. Removes the provision in current law that makes it a felony for election officials to provide early ballots to persons who have not requested an early ballot for that election.

16. States that a voter may provide the voter's ID in a physical form or by an electronic display on a device.

17. Adds to the list of acceptable voter IDs an identification card issued by an employer or a public or private school, college or university, and if the identification card does not include the voter's address it must be accompanied by another form of ID that does include the voter's address.

18. Requires voter registration forms to state that a person who doesn't provide satisfactory proof of U.S. citizenship is only eligible to vote a ballot that contains only federal offices.

19. Allows a county recorder to use the U.S. Postal Service National Change of Address

system and to check it monthly.

20. Revises procedures for county recorders to update voter registration information and verify those updates with the voter.

21. Allows the Secretary of State to enter into contracts with qualified vendors to assist government agencies in obtaining satisfactory evidence of citizenship for voter registration applicants.

22. Provides that a person with a disability may vote in person at the polls, at the polls with an approved machine, at the polls with the assistance of a person of the voter's choosing, at the polls with the assistance of two election officials, in a car at a voting location with two election officials bringing the voter the materials to vote or by using a phone or other telecommunications device with technology approved by the Secretary of State.

23. Removes the prohibition on third party collection of a voted early ballot; allows a voter to give a voted early ballot to another person to deliver it to a polling place, ballot drop box, election official or postal service, and makes it a class 4 felony for that person to intentionally fail to deliver it properly. Prohibits a person other than that voter's caregiver, family member or household member from possessing a voter's unvoted early ballot.

24. Requires the court in any guardianship proceeding to make specific findings before determining the person's incapacity for purposes of voting.

25. Provides for the Secretary of State, source agencies and election officials to request funding from the Clean Elections fund to pay the costs of implementing the automatic electronic voter registration system.

26. States that additional requirements regarding voter ID that make it more difficult for a voter to vote do not further the purposes of this ballot measure.

27. Requires that same day voter registration provisions be "liberally construed" to allow qualified persons to register, cast a ballot and have the ballot counted. These provisions may not be defined more narrowly and the registration process may not be more burdensome than for a registrant who registers to vote by any other means.

Voting locations

28. Modifies the current precinct-based voting system by:

a. Requiring all polling places in a county to allow any voter in that county to receive the proper ballot at any polling place on election day after presenting appropriate identification.

b. Allowing counties with appropriate security and on approval by the Secretary of State to cooperate in allowing a voter to cast a ballot for the voter's home precinct at a voting location in either cooperating county.

29. Allows non-election personnel to provide food, non-alcoholic beverages, umbrellas, chairs or other assistance to voters in line at a voting location if the assistance is offered without regard to whether or how the person votes.

30. Requires county boards of supervisors to provide notice to, allow comment on and cooperate with Indian tribes on precinct boundaries, polling place, voting center and early voting locations and hours of operation, with all processes subject to open meeting laws and public record laws.

31. Requires county boards of supervisors to place one precinct and one voting location, polling place or early voting site on land of each Indian tribe in that county at a location designated by that tribe.

32. Requires voting locations to be accessible to the extent possible or to provide alternative voting procedures.

33. Requires county recorders to establish early voting locations at the recorder's office that are open until 5:00 p.m. on the Monday before election day. Current law allows county recorders to establish early voting locations at the recorder's office that are open until 5:00 p.m. on the Friday before election day.

Initiative and referendum

34. States that court review of a ballot measure's eligibility to be on the ballot is limited to reviewing the Secretary of State's and county recorder's actions in determining validity of signature sheets and individual signatures.

35. Provides that confirming a random sample of signatures and projecting the percentage of validity is sufficient to determine whether the measure qualifies for the ballot.

36. Except for the person's signature, allows another person to print or type the remainder of the signer's required information onto the signature sheet.

37. Allows use of electronic or remote notarization of circulator's affidavits.

38. Removes requirement that a circulator's failure to respond to a subpoena results in disqualification of the signatures collected by that circulator and provides that a circulator is liable for any court penalties for failure to respond to a subpoena.

39. Removes requirement that Secretary of State discard any signatures on a petition sheet that are not from the same county as the majority of signatures on that petition sheet.

40. Specifies that the standard for review of petitions and signatures is "substantial compliance" and that the citizens using the initiative or referendum must substantially comply with those requirements. (Under current law, the standard for review is "strict compliance").

41. States that it is the citizens' intent that initiative and referendum requirements be "liberally construed" in favor of ballot measures.

Campaign finance

42. For a candidate who does not participate in public campaign financing through Clean Elections, reduces the amount an individual, partnership or political action committee may donate to that candidate for each election cycle as follows:

a. For city, town, county, district or legislative candidates, reduces the amount from \$6,250 to \$1,000 per election cycle, except that for a political action committee that is certified to donate at higher levels, the amount is reduced from \$12,500 to \$2,000 per election cycle.

b. For statewide candidates, reduces the amount from \$6,250 to \$2,500 per election cycle, except that for a political action committee that is certified to donate at higher levels, the amount is reduced from \$12,500 to \$5,000 per election cycle.

43. For a candidate who participates in Clean Elections campaign financing:

a. Increases the Clean Elections candidate's primary and general election spending limit combined total as follows:

i. For the Legislature, from \$32,302 to \$56,628.

ii. For State Mine Inspector, from \$103,373 to \$181,323.

iii. For State Treasurer, State Superintendent of Public Instruction or Corporation Commissioner, from \$206,700 to \$362,550.

- iv. For Secretary of State or Attorney General, from \$413,445 to \$725,225.
- v. For Governor, from \$1,595,555 to \$4,478,010.
- b. Allows additional "supplemental grant funding" from the Clean Elections Fund for qualified legislative candidates of up to two times the amount of the Clean Elections spending limit for that candidate and for statewide Clean Elections candidates, allows additional "supplemental grant funding" of up to the total amount of the Clean Elections spending limit for that statewide candidate.
- c. Repeals a separate 20% reduction in allowable contributions to candidates who do not participate in Clean Elections campaign financing.
- d. Requires that a plain language description of statewide ballot measures be included in the Clean Elections informational document and posted on the Clean Elections Commission website and the Secretary of State's website.

Presidential electors

- 44. Provides that the manner of selecting presidential electors is determined by the law in effect on January 1 of the presidential election year.
- 45. Requires that presidential electors be selected on the date of the general election every four years.
- 46. Requires presidential electors to cast their electoral college votes for the presidential candidate who receives the highest number of votes in the state, and if they knowingly fail to do so, they are disqualified from being presidential electors.

Lobbying and lobbyists

- 47. Modifies the list of expenditures that may be made for the benefit of certain public officers and public employees as follows, if properly itemized:
 - a. Limits speaking engagement honorariums to \$50.
 - b. Limits the value of food and beverages to \$20.
 - c. Limits the value of travel and lodging to \$500.
 - d. Limits the total value of "special events" for legislators to \$500.
- 48. Assesses an additional \$25 anticorruption surcharge on each private entity that hires a lobbyist and each designated lobbyist hired by that private entity, to be paid to the Clean Elections fund when the entity and designated lobbyist register and renew their registrations with the Secretary of State's office.

Tax provisions

- 49. Allows taxpayers to use a new voluntary checkoff box on state tax forms to make \$5 contributions to the Clean Elections Fund, while reducing that taxpayer's tax liability by \$5.
- 50. Under current law, each corporation in this state pays a corporate income tax of 4.9% of net income, or \$50, whichever is greater. Beginning January 1, 2023, proposition ___ establishes a new corporate income tax of \$150 (or 4.9% of net income, whichever is greater) for corporations with more than fifty full-time employees or \$350 (or 4.9% of net income, whichever is greater) for corporations with more than fifty full-time employees if the ability of a taxpayer to make the new voluntary \$5 contribution to the Clean Elections Fund is repealed or becomes unenforceable.

51. Annually transfers \$100 from the income tax paid by corporations with more than fifty full-time employees or, if the voluntary income tax checkoff box for Clean Elections is not enforceable, \$300 from the income tax paid by corporations with more than fifty employees into the Clean Elections Fund. These amounts cannot be covered by tax credits.

Additional provisions

52. Provides that if this act is challenged, the people of Arizona desire that the State of Arizona defend this act in court. Additionally, the proponents' campaign committee members may defend this measure if it is challenged, and if the campaign committee members are successful, they are entitled to reasonable attorney fees and costs.

53. Requires the Secretary of State and the director of the Department of Transportation to take necessary steps to implement the automatic voter registration system, the same day registration provisions and the voter eligibility provisions of this act.

54. States that this act does not affect rights and duties that matured, penalties that were incurred and proceedings that were begun before the effective date of this act.